

opment Act of 1987 [Pub. L. 100-242, set out below], the Secretary of Housing and Urban Development shall have authority to insure mortgages under section 235(r), to make assistance payments with respect to such insured mortgages, and to make any other payment or take any other action related to the refinancing of mortgages insured under section 235."

Pub. L. 100-242, title IV, § 401(d), Feb. 5, 1988, 101 Stat. 1899, provided that:

"(1) IN GENERAL.—Effective on October 1, 1989, the program under section 235 of the National Housing Act [this section] shall terminate.

"(2) SAVINGS PROVISION.—The provisions of paragraph (1) shall not affect—

"(A) any mortgage insurance commitment issued; or

"(B) any assistance pursuant to a reservation of funds made;

under section 235 of the National Housing Act prior to October 1, 1989."

IMPLEMENTATION OF 1982 AMENDMENT

Amendment by Pub. L. 97-253 to be implemented only if the Secretary determines that the program of advance payment of insurance premiums, considering the effect of said amendment, is actuarially sound, see section 201(g) of Pub. L. 97-253, set out as a note under section 1709 of this title.

STUDY AND REPORT RESPECTING APPLICATION OF SUBSECTION (n) TO SUBSECTIONS (a) AND (q) PROGRAMS

Pub. L. 96-399, title II, § 206(c), Oct. 8, 1980, 94 Stat. 1631, directed Secretary of Housing and Urban Development to conduct a study of effects which application of subsec. (n) of this section has had or is likely to have on program established by subsec. (a). If program established by subsec. (q) was implemented, Secretary was to include in study an analysis of effects on subsec. (q) program of application of subsec. (n) to such program. Secretary to transmit to Congress, not later than Jan. 1, 1982, a report containing findings and conclusions of study.

FINANCING PURCHASE OF DWELLING FROM NONPROFIT ORGANIZATION AFTER AUGUST 1, 1968

Pub. L. 90-448, title I, § 101(c)(4), Aug. 1, 1968, 82 Stat. 484, provided that: "The purchase of any individual dwelling, sold by a nonprofit organization pursuant to the provisions of section 221(h)(5) of the National Housing Act [12 U.S.C. 1715l(h)(5)] after the date of enactment of this section [Aug. 1, 1968], may be financed with a mortgage insured under the provisions of section 235(j)(4) of such Act [12 U.S.C. 1715z(j)(4)], but such mortgage shall bear interest at the rate provided in section 235(j)(2)(C) of such Act."

CEILING ON TOTAL HOMEOWNERSHIP ASSISTANCE PAYMENTS IN ANY FISCAL YEAR

Pub. L. 90-608, ch. IV, § 401, Oct. 21, 1968, 82 Stat. 1193, provided in part that the total payments that may be required in any fiscal year by all contracts entered into under section 235 of the National Housing Act [this section] shall not exceed \$25,000,000.

Pub. L. 91-47, title II, § 201, July 22, 1969, 83 Stat. 53, increased by \$45,000,000 the limitation on total payments that may be required in any fiscal year by all contracts entered into under section 235 of the National Housing Act, as amended (82 Stat. 477) [this section].

§ 1715z-1. Rental and cooperative housing for lower income families

(a) Authorization for periodic interest reduction payments on behalf of owner of rental housing project

For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic inter-

est reduction payments on behalf of the owner of a rental housing project designed for occupancy by lower income families, which shall be accomplished through payments to mortgagees¹ holding mortgages meeting the special requirements specified in this section.

(b) Restrictions on payments; payments with respect to projects financed under State or local programs; mortgage insurance premium

Interest reduction payments with respect to a project shall only be made during such time as the project is operated as a rental housing project and is subject to a mortgage which meets the requirements of, and is insured under, subsection (j) of this section: *Provided*, That the Secretary is authorized to continue making such interest reduction payments where the mortgage has been assigned to the Secretary: *Provided further*, That interest reduction payments may be made with respect to a mortgage or part thereof on a rental or cooperative housing project owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, public² entity, or a cooperative housing corporation, which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which may involve either new or existing construction and which is approved for receiving the benefits of this section. The term "mortgage insurance premium", when used in this section in relation to a project financed by a loan under a State or local program, means such fees and charges, approved by the Secretary, as are payable by the mortgagor to the State or local agency mortgagee to meet reserve requirements and administrative expenses of such agency.

(c) Amount of payments

The interest reduction payments to a mortgagee by the Secretary on behalf of a project owner shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the project owner as a mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such project owner would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(d) Mortgage handling expenses

The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(e) Operation of project in accordance with requirements respecting tenant eligibility and rents prescribed by Secretary

(1) As a condition for receiving the benefits of interest reduction payments, the project owner shall operate the project in accordance with such requirements with respect to tenant eligi-

¹ So in original. Probably should be "mortgagees".

² So in original. Probably should be preceded by "a".

bility and rents as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of one year (or at shorter intervals where the Secretary deems it desirable).

(2) A project for which interest reduction payments are made under this section and for which the mortgage on the project has been refinanced shall continue to receive the interest reduction payments under this section under the terms of the contract for such payments, but only if the project owner enters into such binding commitments as the Secretary may require (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration that is not less than the term for which such interest reduction payments are made plus an additional 5 years.

(f) Establishment of basic and fair market rental charges; rental for dwelling units; separate utility metering; additional assistance payments for low-income tenants; limitations; amounts; approval of payments

(1)(A)(i) For each dwelling unit there shall be established, with the approval of the Secretary, a basic rental charge and fair market rental charge.

(ii) The basic rental charge shall be—

(I) the amount needed to operate the project with payments of principal and interest due under a mortgage bearing interest at the rate of 1 percent per annum; or

(II) an amount greater than that determined under clause (ii)(I), but not greater than the market rent for a comparable unassisted unit, reduced by the value of the interest reduction payments subsidy.

(iii) The fair market rental charge shall be—

(I) the amount needed to operate the project with payments of principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage covering the project; or

(II) an amount greater than that determined under clause (iii)(I), but not greater than the market rent for a comparable unassisted unit.

(iv) The Secretary may approve a basic rental charge and fair market rental charge for a unit that exceeds the minimum amounts permitted by this subparagraph for such charges only if—

(I) the approved basic rental charge and fair market rental charges each exceed the applicable minimum charge by the same amount; and

(II) the project owner agrees to restrictions on project use or mortgage prepayment that are acceptable to the Secretary.

(v) The Secretary may approve a basic rental charge and fair market rental charge under this paragraph for a unit with assistance under section 1437f of title 42 that differs from the basic rental charge and fair market rental charge for a unit in the same project that is similar in size and amenities but without such assistance, as needed to ensure equitable treatment of tenants in units without such assistance.

(B)(i) The rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge determined pursuant to subparagraph (A), as represents 30 percent of the tenant's adjusted income, except as otherwise provided in this subparagraph.

(ii) In the case of a project which contains more than 5000 units, is subject to an interest reduction payments contract, and is financed under a State or local project, the Secretary may reduce the rental charge ceiling, but in no case shall the rental charge be below the basic rental charge set forth in subparagraph (A)(ii)(I).

(iii) For plans of action approved for capital grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] or the Emergency Low Income Housing Preservation Act of 1987, the rental charge for each dwelling unit shall be at the minimum basic rental charge set forth in subparagraph (A)(ii)(I) or such greater amount, not exceeding the lower of: (I) the fair market rental charge set forth in subparagraph (A)(iii)(I); or (II) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, as represents 30 percent of the tenant's adjusted income.

(C) With respect to those projects which the Secretary determines have separate utility metering paid by the tenants for some or all dwelling units, the Secretary may—

(i) permit the basic rental charge and the fair market rental charge to be determined on the basis of operating the project without the payment of the cost of utility services used by such dwelling units; and

(ii) permit the charging of a rental for such dwelling units at such an amount less than 30 percent of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall rental be lower than 25 percent of a tenant's adjusted income.

(2) With respect to 20 per centum of the dwelling units in any project made subject to a contract under this section after August 22, 1974, the Secretary shall make, and contract to make, additional assistance payments to the project owner on behalf of tenants whose incomes are too low for them to afford the basic rentals (including the amount allowed for utilities in the case of a project with separate utility metering) with 30 per centum of their adjusted income. The additional assistance payments authorized by this paragraph with respect to any dwelling unit shall be the amount required to reduce the rental payment (including the amount allowed for utilities in the case of a project with separate utility metering) by the tenant to the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the tenant's monthly adjusted income;

(B) 10 per centum of the tenant's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a

part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

Notwithstanding the foregoing provisions of this paragraph, the Secretary may—

(A) reduce such 20 per centum requirement in the case of any project if he determines that such action is necessary to assure the economic viability of the project; or

(B) increase such 20 per centum requirement in the case of any project if he determines that such action is necessary and feasible in order to assure, insofar as is practicable, that there is in the project a reasonable range in the income levels of tenants, or that such action is to be taken to meet the housing needs of elderly or handicapped families.

(3) The Secretary shall utilize amounts credited to the fund described in subsection (g) for the sole purpose of carrying out the purposes of section 201 of the Housing and Community Development Amendments of 1978. No payments may be made from such fund unless approved in an appropriation Act. No amount may be so approved for any fiscal year beginning after September 30, 1994.

(4) To ensure that eligible tenants occupying that number of units with respect to which assistance was being provided under this subsection immediately prior to November 30, 1983, receive the benefit of assistance contracted for under paragraph (2), the Secretary shall offer annually to amend contracts entered into under this subsection with owners of projects assisted but not subject to mortgages insured under this section to provide sufficient payments to cover 100 percent of the necessary rent increases and changes in the incomes of eligible tenants, subject to the availability of authority for such purpose under section 1437c(c) of title 42. The Secretary shall take such actions as may be necessary to ensure that payments, including payments that reflect necessary rent increases and changes in the incomes of tenants, are made on a timely basis for all units covered by contracts entered into under paragraph (2).

(5)(A) In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

(i) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 1437f(c) of title 42;

(ii) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(iii) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

(B) Assistance under section 1437f of title 42 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.

(6) Repealed. Pub. L. 104-99, title IV, § 405(d)(2), Jan. 26, 1996, 110 Stat. 45.

(7) The Secretary shall determine whether and under what conditions the provisions of this subsection shall apply to mortgages sold by the Secretary on a negotiated basis.

(g) Collection of excess rental charges; credit to reserve for additional assistance payments; retention by project owner

(1) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f).

(2) Notwithstanding any other requirements of this subsection, a project owner may retain some or all of such excess charges for project use if authorized by the Secretary. Such excess charges shall be used for the project and upon terms and conditions established by the Secretary, unless the Secretary permits the owner to retain funds for non-project use after a determination that the project is well-maintained housing in good condition and that the owner has not engaged in material adverse financial or managerial actions or omissions as described in section 516 of the Multifamily Assisted Housing Reform and Affordability Act of 1997. In connection with the retention of funds for non-project use, the Secretary may require the project owner to enter into a binding commitment (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration of not less than the term of the existing affordability restrictions plus an additional 5 years.

(3) The Secretary shall not withhold approval of the retention by the owner of such excess charges because of the existence of unpaid excess charges if such unpaid amount is being remitted to the Secretary over a period of time in accordance with a workout agreement with the Secretary, unless the Secretary determines that the owner is in violation of the workout agreement.

(h) Rules and regulations

In addition to establishing the requirements specified in subsection (e), the Secretary is authorized to make such rules and regulations, to enter into such agreements, and to adopt such procedures as he may deem necessary or desirable to carry out the provisions of this section.

(i) Authorization of appropriations; aggregate amount of contracts; contracts for assistance payments; income limitations; availability of amounts for projects approved prior to rehabilitation and projects for occupancy by elderly or handicapped families; definitions

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed \$75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by \$125,000,000 on July 1, 1969, by \$150,000,000 on July 1, 1970, by \$200,000,000 on July 1, 1971 and by \$75,000,000 on July 1, 1974. The Secretary shall utilize, to the extent necessary after September 30, 1984, any authority under this section that is recaptured either as the result of the conversion of housing projects covered by assistance under subsection (f)(2) to contracts for assistance under section 1437f of title 42 or otherwise for the purpose of making assistance payments, including amendments as provided in subsection (f)(4), with respect to housing projects assisted, but not subject to mortgages insured, under this section that remain covered by assistance under subsection (f)(2).

(2) Contracts for assistance payments under this section may be entered into only with respect to tenants whose incomes do not exceed 80 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

(3) Not less than 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to rehabilitation.

(4) At least 20 per centum of the total amount of contracts for assistance payments authorized in appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to projects which are planned in whole or in part for occupancy by elderly or handicapped families. As used in this paragraph, the term "elderly families" means families which consist of two or more persons the head of which (or his spouse) is sixty-two years of age or over or is handicapped. Such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently,

and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

(j) Insurance of mortgages; definitions; eligibility for insurance; mortgage requirements; property or project requirements; sale of individual dwelling units; release of mortgagor from liability or release of property from lien of mortgage

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of this subsection. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as he may prescribe.

(2) As used in this subsection—

(A) the terms "family" and "families" shall have the same meaning as in section 1715l of this title;

(B) the term "elderly or handicapped families" shall have the same meaning as in section 1701q³ of this title; and

(C) the terms "mortgage", "mortgagee", and "mortgagor" shall have the same meaning as in section 1707 of this title.

(3) To be eligible for insurance under this subsection, a mortgage shall meet the requirements specified in subsections (d)(1) and (d)(3) of section 1715l of this title, except as such requirements are modified by this subsection. In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes, and required reserves.

(4) A mortgage to be insured under this subsection shall—

(A) be executed by a mortgagor eligible under subsection (d)(3) or (e) of section 1715l of this title;

(B) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; and

(C) provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

(5) The property or project shall—

(A) comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of the property for mort-

³ See References in Text note below.

gage insurance and may include such non-dwelling facilities as the Secretary deems adequate and appropriate to serve the occupants and the surrounding neighborhood: *Provided*, That the project shall be predominantly residential and any nondwelling facility included in the mortgage shall be found by the Secretary to contribute to the economic feasibility of the project, and the Secretary shall give due consideration to the possible effect of the project on other business enterprises in the community: *Provided further*, That, in the case of a project designed primarily for occupancy by elderly or handicapped families, the project may include related facilities for use by elderly or handicapped families, including cafeterias or dining halls, community rooms, workshops, infirmaries, or other inpatient or outpatient health facilities, and other essential service facilities;

(B) include five or more dwelling units, but such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities; and

(C) be designed primarily for use as a rental project to be occupied by lower income families or by elderly or handicapped families: *Provided*, That lower income persons who are less than sixty-two years of age shall be eligible for occupancy in such a project.

In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on December 31, 1970, which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the first proviso in subparagraph (A) except the requirement that the project be predominantly residential).

(6) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to lower income or elderly or handicapped purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may provide for such release.

(k) Definitions

As used in this section the term “tenant” includes a member of a cooperative; the term “rental housing project” includes a cooperative housing project; and the terms “rental” and “rental charge” mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(l) Allocation and transfer of reasonable portion of total authority to contract to make payments to Secretary of Agriculture for use in rural areas and small towns

The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make periodic interest reduction payments as approved in appropriation Acts under subsection (i).

(m) “Income” defined

For the purpose of this section the term “income” means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, except that any amounts not actually received by the family may not be considered as income under this subsection. In determining amounts to be excluded from income, the Secretary may, in the Secretary’s discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

(n) Termination date for insurance of mortgages; exception

No mortgage shall be insured under this section after November 30, 1983, except pursuant to a commitment to insure before that date. A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.

(o) State funding of interest reduction payments

The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make interest reduction payments, subject to all the terms and conditions specified in this section and in rules, regulations and procedures adopted by the Secretary under this section, with respect to all or a part of a project covered by a mortgage insured under this section. Any funds provided by a State or agency thereof for the purpose of making interest reduction payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified therein. Before entering into any agreements pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of interest reduction payments for the full period specified in the interest reduction contract.

(p) Contracts with State or local agencies for monitoring and supervision of management by private sponsors of assisted projects

The Secretary is authorized to enter into contracts with State or local agencies approved by him to provide for the monitoring and supervision by such agencies of the management by

private sponsors of projects assisted under this section. Such contracts shall require that such agencies promptly report to the Secretary any deficiencies in the management of such projects in order to enable the Secretary to take corrective action at the earliest practicable time.

(q) Assistance to residents of covered projects; contracting authority; applicability

The Secretary may provide assistance under section 1437f of title 42 with respect to residents of units in a project assisted under this section. In entering into contracts under section 1437c(c) of title 42 with respect to the additional authority provided on October 1, 1980, the Secretary shall not utilize more than \$20,000,000 of such additional authority to provide assistance for elderly or handicapped families which, at the time of applying for assistance under such section 1437f of title 42, are residents of a project assisted under this section and are expending more than 50 percent of their income on rental payments.

(r) Payments for benefit of certain projects having mortgages made by State or local housing finance or government agencies

The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section, including without limitation rent supplement and rental assistance payment unit increases and mortgage increases for any eligible purpose under this section, including without limitation operating deficit loans.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after February 5, 1988, along with a certification of the mortgagee that amounts hereunder are to be utilized only for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The calculation of the amount of assistance to be provided under an interest reduction contract pursuant to this subsection shall be made on the basis of an assumed mortgage

term equal to the lesser of a 40-year amortization period or the term of that part of the mortgage which relates to the additional assistance provided under this subsection, even though the additional assistance may be provided for a shorter period. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.

(s) Grants and loans for rehabilitation of multi-family projects

(1) In general

The Secretary may make grants and loans for the capital costs of rehabilitation to owners of projects that meet the eligibility and other criteria set forth in, and in accordance with, this subsection.

(2) Project eligibility

A project may be eligible for capital assistance under this subsection under a grant or loan only—

(A) if—

(i) the project is or was insured under any provision of subchapter II of this chapter;

(ii) the project was assisted under section 1437f of title 42 on October 27, 1997; and

(iii) the project mortgage was not held by a State agency as of October 27, 1997;

(B) if the project owner agrees to maintain the housing quality standards as required by the Secretary;

(C) the project owner enters into such binding commitments as the Secretary may require (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration that is not less than the period referred to in paragraph (5)(C);

(D)(i) if the Secretary determines that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to such project; or

(ii) if the Secretary elects to make such determination, that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

(iii) material adverse financial or managerial actions or omissions, as the terms are used in this subparagraph, include—

(I) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(II) materially breaching a contract for assistance under section 1437f of title 42,

after receipt of notice and an opportunity to cure;

(III) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(IV) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(V) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(VI) committing any act or omission that would warrant suspension or debarment by the Secretary; and

(iv) the term “owner” as used in this subparagraph, in addition to it having the same meaning as in section 1437f(f) of title 42, also means an affiliate of the owner; the term “purchaser” as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser; the terms “affiliate of the owner” and “affiliate of the purchaser” means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser; the term “control” means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser; and

(E) if the project owner demonstrates to the satisfaction of the Secretary—

(i) using information in a comprehensive needs assessment, that capital assistance under this subsection from a grant or loan (as appropriate) is needed for rehabilitation of the project; and

(ii) that project income is not sufficient to support such rehabilitation.

(3) Eligible uses

Amounts from a grant or loan under this subsection may be used only for projects eligible under paragraph (2) for the purposes of—

(A) payment into project replacement reserves;

(B) debt service payments on non-Federal rehabilitation loans; and

(C) payment of nonrecurring maintenance and capital improvements, under such terms and conditions as are determined by the Secretary.

(4) Grant and loan agreements

(A) In general

The Secretary shall provide in any grant or loan agreement under this subsection that the grant or loan shall be terminated if

the project fails to meet housing quality standards, as applicable on October 27, 1997, or any successor standards for the physical conditions of projects, as are determined by the Secretary.

(B) Affordability and use clauses

The Secretary shall include in a grant or loan agreement under this subsection a requirement for the project owners to maintain such affordability and use restrictions as the Secretary determines to be appropriate and consistent with paragraph (2)(C).

(C) Other terms

The Secretary may include in a grant or loan agreement under this subsection such other terms and conditions as the Secretary determines to be necessary.

(5) Loan terms

A loan under this subsection—

(A) shall provide amounts for the eligible uses under paragraph (3) in a single loan disbursement of loan principal;

(B) shall be repaid, as to principal and interest, on behalf of the borrower using amounts recaptured from contracts for interest reduction payments pursuant to clause (i) or (ii) of paragraph (7)(A);

(C) shall have a term to maturity of a duration not shorter than the remaining period for which the interest reduction payments for the insured mortgage or mortgages that fund repayment of the loan would have continued after extinguishment or writedown of the mortgage (in accordance with the terms of such mortgage in effect immediately before such extinguishment or writedown);

(D) shall bear interest at a rate, as determined by the Secretary of the Treasury, that is based upon the current market yields on outstanding marketable obligations of the United States having comparable maturities; and

(E) shall involve a principal obligation of an amount not exceeding the amount that can be repaid using amounts described in subparagraph (B) over the term determined in accordance with subparagraph (C), with interest at the rate determined under subparagraph (D).

(6) Delegation

(A) In general

In addition to the authorities set forth in subsection (p), the Secretary may delegate to State and local governments the responsibility for the administration of grants under this subsection. Any such government may carry out such delegated responsibilities directly or under contracts.

(B) Administration costs

In addition to other eligible purposes, amounts of grants under this subsection may be made available for costs of administration under subparagraph (A).

(7) Funding

(A) In general

For purposes of carrying out this subsection, the Secretary may make available

amounts that are unobligated amounts for contracts for interest reduction payments—

(i) that were previously obligated for contracts for interest reduction payments under this section until the insured mortgage under this section was extinguished;

(ii) that become available as a result of the outstanding principal balance of a mortgage having been written down;

(iii) that are uncommitted balances within the limitation on maximum payments that may have been, before October 27, 1997, permitted in any fiscal year; or

(iv) that become available from any other source.

(B) Liquidation authority

The Secretary may liquidate obligations entered into under this subsection under section 1305(10) of title 31.

(C) Capital grants

In making capital grants under the terms of this subsection, using the amounts that the Secretary has recaptured from contracts for interest reduction payments, the Secretary shall ensure that the rates and amounts of outlays do not at any time exceed the rates and amounts of outlays that would have been experienced if the insured mortgage had not been extinguished or the principal amount had not been written down, and the interest reduction payments that the Secretary has recaptured had continued in accordance with the terms in effect immediately prior to such extinguishment or write-down.

(D) Loans

In making loans under this subsection using the amounts that the Secretary has recaptured from contracts for interest reduction payments pursuant to clause (i) or (ii) of paragraph (7)(A)—

(i) the Secretary may use such recaptured amounts for costs (as such term is defined in section 661a of title 2) of such loans; and

(ii) the Secretary may make loans in any fiscal year only to the extent or in such amounts that amounts are used under clause (i) to cover costs of such loans.

(June 27, 1934, ch. 847, title II, §236, as added Pub. L. 90-448, title II, §201(a), Aug. 1, 1968, 82 Stat. 498; amended Pub. L. 91-152, title I, §§101(e), 107(b), 108, title IV, §§412(c), 418(b), Dec. 24, 1969, 83 Stat. 379, 381, 398, 402; Pub. L. 91-609, title I, §§101(e), 102(b), 108, 114(b), 114[115](b), 117(c), 118(a), 121, Dec. 31, 1970, 84 Stat. 1770, 1772-1776; Pub. L. 92-503, §1(e), Oct. 18, 1972, 86 Stat. 906; Pub. L. 93-85, §1(e), Aug. 10, 1973, 87 Stat. 220; Pub. L. 93-117, §1(e), Oct. 2, 1973, 87 Stat. 421; Pub. L. 93-383, title II, §212, Aug. 22, 1974, 88 Stat. 672; Pub. L. 94-173, §4(b), Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, §4, Aug. 3, 1976, 90 Stat. 1070; Pub. L. 95-128, title II, §206(a)-(c), title III, §301(e), Oct. 12, 1977, 91 Stat. 1130, 1131; Pub. L. 95-406, §1(e), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95-557, title II, §201(k), formerly (i), title III, §301(e), Oct. 31, 1978, 92 Stat. 2087, 2096, as renumbered Pub. L. 97-35, title III, §321(f)(2)(A), Aug. 13, 1981, 95 Stat. 400; Pub. L. 96-71, §1(e),

Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §1(e), Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title II, §§203(b), 205(b), title III, §301(e), Dec. 21, 1979, 93 Stat. 1107, 1108, 1111; Pub. L. 96-372, §§1(e), 2, Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96-399, title II, §204(b), 211, title III, §301(e), Oct. 8, 1980, 94 Stat. 1629, 1636, 1638; Pub. L. 97-35, title III, §§321(f)(3), 322(f), 331(e), Aug. 13, 1981, 95 Stat. 400, 403, 413; Pub. L. 97-289, §1(e), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 98-35, §1(e), May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §1(e), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98-181, title I [title II, §§217(c), 218], Nov. 30, 1983, 97 Stat. 1186, 1187; Pub. L. 98-479, title I, §§102(a)(2), 104(a)(4), title II, §204(a)(9), Oct. 17, 1984, 98 Stat. 2221, 2225, 2232; Pub. L. 100-242, title I, §§167(a)(1), (b), 170(b), 186(a), title IV, §§429(f), 430(a), Feb. 5, 1988, 101 Stat. 1864, 1867, 1877, 1919; Pub. L. 101-235, title II, §203(a)(1), title III, §301, Dec. 15, 1989, 103 Stat. 2037, 2043; Pub. L. 101-625, title V, §578(a), title VI, §§611(a), (b)(1), 612(a), Nov. 28, 1990, 104 Stat. 4244, 4278, 4279; Pub. L. 102-550, title III, §331, title IV, §408(b), Oct. 28, 1992, 106 Stat. 3773, 3778; Pub. L. 104-99, title IV, §405(d), Jan. 26, 1996, 110 Stat. 44; Pub. L. 104-134, title I, §101(e) [title II, §228], Apr. 26, 1996, 110 Stat. 1321-257, 1321-292; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-204, title II, §221, Sept. 26, 1996, 110 Stat. 2906; Pub. L. 105-65, title V, §531, Oct. 27, 1997, 111 Stat. 1409; Pub. L. 105-276, title II, §227, Oct. 21, 1998, 112 Stat. 2490; Pub. L. 106-74, title V, §§532(a)-(d), 533, Oct. 20, 1999, 113 Stat. 1116, 1117, 1119; Pub. L. 106-377, §1(a)(1) [title II, §216], Oct. 27, 2000, 114 Stat. 1441, 1441A-28; Pub. L. 106-569, title VIII, §861(a), Dec. 27, 2000, 114 Stat. 3025.)

Editorial Notes

REFERENCES IN TEXT

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in subsec. (f)(1)(B)(iii), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, as amended, which is classified principally to chapter 42 (§4101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (f)(1)(B)(iii), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101-625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Subtitles A and B of title II, which were formerly set out as a note under section 1715f of this title and which amended section 1715z-6 of this title, were amended generally by Pub. L. 101-625 and are classified to subchapter I (§4101 et seq.) of chapter 42 of this title. Subtitles C and D of title II amended section 1715z-15 of this title and sections 1437f, 1472, 1485, and 1487 of Title 42, The Public Health and Welfare. Another subtitle C of title II of Pub. L. 100-242, as added by Pub. L. 102-550, is classified generally to subchapter II (§4141 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

Section 201 of the Housing and Community Development Amendments of 1978, referred to in subsec. (f)(3), (5)(A), is section 201 of Pub. L. 95-557, title II, Oct. 31, 1978, 92 Stat. 2084, which enacted section 1715z-1a of this title and amended this section.

Section 516 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsec. (g)(2), is section 516 of Pub. L. 105-65, which is set out as a note under section 1437f of Title 42, The Public Health and Welfare.

Section 1701q of this title, referred to in subsec. (j)(2)(B), was amended generally by Pub. L. 101-625, title VIII, §801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, no longer defines the term “elderly or handicapped families”.

Section 236 contracts, referred to in subsec. (r)(2), refer to contracts under this section.

CODIFICATION

Subsec. (o), added as subsec. (n) by Pub. L. 91-609, §121(a), designated subsec. (o) in the Code as a prior subsec. (n) was added by Pub. L. 91-152, and amended by Pub. L. 91-609, §101(e).

AMENDMENTS

2000—Subsec. (g)(2). Pub. L. 106-569, §861(a)(1), substituted “Notwithstanding” for “Subject to paragraph (3) and notwithstanding”.

Subsec. (g)(3). Pub. L. 106-569, §861(a)(2), redesignated par. (4) as (3) and struck out former par. (3) which related to authority under par. (2) to retain and use excess charges.

Subsec. (g)(3)(A). Pub. L. 106-377 substituted “fiscal years 2000 and 2001” for “fiscal year 2000”.

Subsec. (g)(4). Pub. L. 106-569, §861(a)(2), redesignated par. (4) as (3).

1999—Subsec. (e). Pub. L. 106-74, §532(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (f)(1). Pub. L. 106-74, §532(d), added par. (1) and struck out former par. (1) which required that basic and fair market rental charges be established with the approval of the Secretary and that the rental charge for each dwelling unit be within the basic and fair market charges, subject to certain exceptions and refinements.

Subsec. (g). Pub. L. 106-74, §532(b), (c), designated existing provisions as par. (1), struck out at end “Notwithstanding any other requirements of this subsection, an owner of a project with a mortgage insured under this section, or a project previously assisted under subsection (b) of this section but without a mortgage insured under this section if the project mortgage was insured under section 1713 of this title before July 30, 1998 pursuant to section 1715n(f) of this title and assisted under subsection (b) of this section, may retain some or all of such excess charges for project use if authorized by the Secretary and upon such terms and conditions as established by the Secretary.”, and added pars. (2) to (4).

Subsec. (s). Pub. L. 106-74, §533(a)(1), substituted “Grants and loans for rehabilitation of multifamily projects” for “Grant authority” in heading.

Subsec. (s)(1). Pub. L. 106-74, §533(a)(2), inserted “and loans” after “grants”.

Subsec. (s)(2). Pub. L. 106-74, §533(a)(3)(A), substituted “capital assistance under this subsection under a grant or loan only” for “capital grant assistance under this subsection” in introductory provisions.

Subsec. (s)(2)(C). Pub. L. 106-74, §533(b)(1)(B), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (s)(2)(D). Pub. L. 106-74, §533(b)(1)(A), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Subsec. (s)(2)(D)(i). Pub. L. 106-74, §533(a)(3)(B), substituted “capital assistance under this subsection from a grant or loan (as appropriate)” for “capital grant assistance”.

Subsec. (s)(2)(E). Pub. L. 106-74, §533(b)(1)(A), redesignated subpar. (D) as (E).

Subsec. (s)(3). Pub. L. 106-74, §533(a)(4), in par. heading, substituted “Eligible uses” for “Eligible purposes” and in introductory provisions, substituted “Amounts from a grant or loan under this subsection may be used only for projects eligible under paragraph (2) for the purposes of—” for “The Secretary may make grants to the owners of eligible projects for the purposes of—”.

Subsec. (s)(4). Pub. L. 106-74, §533(a)(5)(A), substituted “Grant and loan agreements” for “Grant agreement” in heading.

Subsec. (s)(4)(A). Pub. L. 106-74, §533(a)(5)(B), inserted “or loan” after “grant” in two places.

Subsec. (s)(4)(B). Pub. L. 106-74, §533(a)(5)(B), (b)(2), inserted “or loan” after “grant” and “and consistent with paragraph (2)(C)” before period at end.

Subsec. (s)(4)(C). Pub. L. 106-74, §533(a)(5)(B), inserted “or loan” after “grant”.

Subsec. (s)(5). Pub. L. 106-74, §533(a)(9), added par. (5). Former par. (5) redesignated (6).

Pub. L. 106-74, §533(a)(6), which directed the insertion of “or loan” after “grant” each place it appeared, could not be executed because the word “grant” did not appear.

Subsec. (s)(6). Pub. L. 106-74, §533(a)(8), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (s)(6)(D). Pub. L. 106-74, §533(a)(7), added subpar. (D).

Subsec. (s)(7). Pub. L. 106-74, §533(a)(8), redesignated par. (6) as (7).

1998—Subsec. (g). Pub. L. 105-276 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f) of this section. However, a project owner with a mortgage insured under this section may retain some or all of such excess charges for project use if authorized by the Secretary and upon such terms and conditions as established by the Secretary.”

1997—Subsec. (s). Pub. L. 105-65 added subsec. (s).

1996—Subsec. (f)(1). Pub. L. 104-204, §221(a)(2), which directed the amendment of second sentence by striking “or (i) the fair market rental established under section 1437f(c) of title 42 for the market area in which the housing is located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,” after “pursuant to this paragraph.”, was executed by striking language which did not include word “or” before “(ii)” to reflect the probable intent of Congress and the amendment by Pub. L. 104-134, §101(e) [title II, §228(a)]. See below.

Pub. L. 104-204, §221(a)(1), (3), struck out “the lower of (i)” after “amount, not exceeding”, and inserted after second sentence “However, in the case of a project which contains more than 5,000 units, is subject to an interest reduction payments contract, and is financed under a State or local program, the Secretary may reduce the rental charge ceiling, but in no case shall the rent be below basic rent. For plans of action approved for Capital Grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA), the rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, as represents 30 percent of the tenant’s adjusted income, but in no case shall the rent be below basic rent.”

Pub. L. 104-134, §101(e) [title II, §228(a)], in second sentence, struck out “or” before “(ii)” and substituted “located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,” for “located.”.

Pub. L. 104-99, §405(d)(1), substituted “The rental charge for each dwelling unit shall be at the basic rent-

al charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the fair market rental established under section 1437f(c) of title 42 for the market area in which the housing is located, as represents 30 per centum of the tenant's adjusted income," for "The rental for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge, as represents 30 per centum of the tenant's adjusted income."

Subsec. (f)(6). Pub. L. 104-99, §405(d)(2), struck out par. (6) which read as follows:

"(6)(A) Notwithstanding paragraph (1), tenants whose incomes exceed 80 percent of area median income shall pay as rent the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 1437f(b) of title 42 for the jurisdiction in which the housing is located.

"(B) An owner shall phase in any increase in rents for current tenants resulting from subparagraph (A). Rental charges collected in excess of the basic rental charges shall continue to be credited to the reserve fund described in subsection (g)(1) of this section."

Subsec. (f)(7). Pub. L. 104-204, §221(b), added par. (7).

Subsec. (g). Pub. L. 104-204, §221(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f) of this section."

Pub. L. 104-134, §101(e) [title II, §228(b)], inserted "on a unit-by-unit basis" after "collected".

1992—Subsec. (f)(3). Pub. L. 102-550, §408(b), substituted "September 30, 1994" for "September 30, 1992".

Subsec. (j)(4)(A). Pub. L. 102-550, §331, struck out "private" before "mortgagor".

1990—Subsec. (f)(3). Pub. L. 101-625, §578(a), substituted "September 30, 1992" for "September 30, 1991".

Subsec. (f)(5). Pub. L. 101-625, §611(b)(1), added par. (5).

Subsec. (f)(6). Pub. L. 101-625, §612(a), added par. (6).

Subsec. (m). Pub. L. 101-625, §611(a), inserted before period at end of first sentence " , except that any amounts not actually received by the family may not be considered as income under this subsection".

1989—Subsec. (b). Pub. L. 101-235, §203(a)(1), inserted "public entity," after "dividend entity,".

Subsec. (f)(3). Pub. L. 101-235, §301, substituted "September 30, 1991" for "September 30, 1989".

1988—Subsec. (f)(3). Pub. L. 100-242, §186(a), substituted "September 30, 1989" for "September 30, 1985".

Subsec. (f)(4). Pub. L. 100-242, §167(a)(1), substituted "100 percent" for "90 per centum".

Subsec. (i)(1). Pub. L. 100-242, §§170(b), 429(f), amended par. (1) identically, substituting "subsection (f)(4)" for "subsection (h)".

Subsec. (n). Pub. L. 100-242, §167(b), inserted at end "A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section."

Subsec. (r). Pub. L. 100-242, §430(a), added subsec. (r).

1984—Subsec. (f)(4). Pub. L. 98-479, §102(a)(2), struck out "up to" before "90 per centum".

Subsec. (j)(4)(B). Pub. L. 98-479, §104(a)(4), substituted "bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets" for "bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum (not

in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market".

Subsec. (j)(5). Pub. L. 98-479, §204(a)(9), substituted "of residents" for "or residents" in provision following subpar. (C).

1983—Subsec. (f)(3). Pub. L. 98-181, §217(c), substituted "September 30, 1985" for "September 30, 1982".

Subsec. (f)(4). Pub. L. 98-181, §218(a), added par. (4).

Subsec. (i)(1). Pub. L. 98-181, §218(b), inserted provision relating to utilization by the Secretary of any authority under this section that it recaptured.

Subsec. (n). Pub. L. 98-109 substituted "November 30, 1983" for "September 30, 1983".

Pub. L. 98-35 substituted "September 30, 1983" for "May 20, 1983".

1982—Subsec. (n). Pub. L. 97-289 substituted "May 20, 1983" for "September 30, 1982".

1981—Subsec. (e). Pub. L. 97-35, §322(f)(1), substituted "one year" for "two years".

Subsec. (f)(1). Pub. L. 97-35, §322(f)(2), (3), substituted provisions respecting applicability of specific percentage of tenant's adjusted income, for provisions respecting applicability of specific percentage of tenant's income.

Subsec. (f)(2). Pub. L. 97-35, §322(f)(4)-(6), substituted provisions respecting applicability of specific percentage of tenant's adjusted income, for provisions respecting applicability of specific percentage of tenant's income, and struck out provisions relating to reduction of rental payment.

Subsec. (f)(3). Pub. L. 97-35, §§321(f)(3), 322(f)(7), struck out subpar. (A) which related to establishment of an initial operating expense level, redesignated subpar. (B) as entire provision and substituted "1982" for "1981".

Subsec. (m). Pub. L. 97-35, §322(f)(8), substituted provisions defining "income" as income from all sources of each member of the household, subject to certain exclusions, for provisions defining term "income" as income determined under section 1437f of title 42.

Subsec. (n). Pub. L. 97-35, §331(e), substituted "1982" for "1981".

1980—Subsec. (f)(3)(B). Pub. L. 96-399, §204(b), substituted "September 30, 1981" for "October 15, 1980" in third sentence, and struck out "on or after October 1, 1978, or credited to such fund prior to October 1, 1978, but remaining unobligation on October 31, 1978," in first sentence.

Pub. L. 96-372, §2, substituted "October 15, 1980" for "September 30, 1980".

Subsec. (n). Pub. L. 96-399, §301(e), substituted "September 30, 1981" for "October 15, 1980".

Pub. L. 96-372, §1(e), substituted "October 15, 1980" for "September 30, 1980".

Subsec. (q). Pub. L. 96-399, §211, added subsec. (q).

1979—Subsec. (f)(3)(B). Pub. L. 96-153, §205(b), substituted "after October 1, 1978, or credited to such fund prior to October 1, 1978, but remaining unobligated on October 31, 1978," for "after October 1, 1978," and in provision relating to the restriction on approval of funds, substituted "September 30, 1980" for "September 30, 1979".

Subsec. (m). Pub. L. 96-153, §203(b), substituted definition of "income" by reference to section 1437f of title 42 for provisions requiring deduction of \$300 for each minor member of the family in determining the income and further providing that the earnings of a minor not be included in the income of person or family.

Subsec. (n). Pub. L. 96-153, §301(e), substituted "September 30, 1980" for "November 30, 1979".

Pub. L. 96-105 substituted "November 30, 1979" for "October 31, 1979".

Pub. L. 96-71 substituted "October 31, 1979" for "September 30, 1979".

1978—Subsec. (f)(3). Pub. L. 95-557, §201(k)(1), formerly §201(i)(1), designated existing provisions as par. (A), substituted "For each fiscal year prior to the fiscal year 1979, the" for "The", and added par. (B).

Subsec. (g). Pub. L. 95-557, §201(k)(2), formerly §201(i)(2), struck out provisions authorizing, that if

during any period the balance in reserve fund was adequate to meet additional assistance payments, such excess charges be credited to the appropriation authorized by subsec. (i), and be available until the end of the next fiscal year for purpose of making assistance payments with respect to rental housing projects, and that for purpose of this subsection and par. (3) of subsec. (f), initial operating expense level for any project assisted under a contract entered into prior to Oct. 12, 1977, be established by the Secretary not later than 180 days after Oct. 12, 1977.

Subsec. (n). Pub. L. 95-557, §301(e), substituted "September 30, 1979" for "October 31, 1978".

Pub. L. 95-406 substituted "October 31, 1978" for "September 30, 1978".

1977—Subsec. (f)(3). Pub. L. 95-128, §206(a), (b), substituted "The Secretary is authorized to make, and shall contract to make to the extent of the moneys in the reserve fund established under subsection (g) of this section and to the further extent of funds authorized in appropriation Acts, an additional monthly assistance payment to the project owner up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level." for "At any time subsequent to the establishment of an initial operating expense level, the Secretary is authorized to make, and contract to make, additional assistance payments to the project owner in an amount up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level, but not to exceed the amount required to maintain the basic rentals of any units at levels not in excess of 30 per centum or such lower per centum not less than 25 per centum as shall reflect the reduction permitted in clause (ii) of the last sentence of paragraph (1), of the income of tenants occupying such units.", inserted sentence "Such payment shall be used by the project owner solely to effect, and there shall be, a reduction in the basic rental charges established for the project.", and substituted "Any contract to make additional monthly assistance payments shall be for a one-year period and shall be adjusted periodically to provide, to the extent approved in appropriation Acts, for continuation of the payments and for an appropriate adjustment in the amount of the assistance payments." for "Any contract to make additional assistance payments may be amended periodically to provide for appropriate adjustments in the amount of the assistance payments."; and substituted in last sentence "unless the Secretary finds that the increase in the cost of utilities or local property taxes is not reasonable or not" for "only if the Secretary finds that the increase in the cost of utilities or local property taxes, is reasonable and is".

Subsec. (g). Pub. L. 95-128, §206(c), substituted date of enactment of Pub. L. 95-128, which is October 12, 1977, for date of enactment of Pub. L. 93-383, which was August 22, 1974.

Subsec. (n). Pub. L. 95-128, §301(e), substituted "September 30, 1978" for "September 30, 1977".

1976—Subsec. (f)(2). Pub. L. 94-375, §4(b), inserted "(including the amount allowed for utilities in the case of a project with separate utility metering)" after "basic rentals" and "reduce the rental payment", and struck out "or such lower per centum as may be established pursuant to the provisions of clause (ii) of the last sentence of paragraph (1)" after "25 per centum of their income" and "25 per centum of the tenant's income".

Subsec. (n). Pub. L. 94-375, §4(a), substituted "September 30, 1977" for "June 30, 1976".

1975—Subsec. (j)(5)(C). Pub. L. 94-173 struck out provision limiting to 10 per centum the number of dwelling units available to lower income persons under the age of 62.

1974—Subsec. (f). Pub. L. 93-383, §212(1), (2), redesignated existing subsec. (f) as (f)(1) and cls. (1) and (2) as (A) and (B), respectively, and inserted provisions relating to separate utility metering and pars. (2) and (3).

Subsec. (g). Pub. L. 93-383, §212(3), substituted provisions authorizing the creation of a reserve fund of ex-

cess rental charges and providing for use of such fund for making additional assistance payments, for provisions authorizing the Secretary to deposit excess charges in a revolving fund used for making interest reduction payments to any housing project receiving assistance, and authorizing investment of monies in United States obligations.

Subsec. (i)(1). Pub. L. 93-383, §212(4), inserted authorization for increase by \$75,000,000 on July 1, 1974.

Subsec. (i)(2). Pub. L. 93-383, §212(5), substituted provisions relating to contracts for assistance payments and income limitations with respect to families involved in such contracts, for provisions relating to contracts for interest reduction payments, income limitations with respect to families involved in such contracts, and semiannual reports to Congressional Committees on income levels of families living in assisted projects.

Subsec. (i)(3). Pub. L. 93-383, §212(5), substituted provisions relating to availability of not less than 10 per centum of the total amount of contracts for assistance payments, for provisions relating to contracts for not more than 10 per centum of the total amount of interest reduction payments.

Subsec. (i)(4). Pub. L. 93-383, §212(5), added par. (4).

Subsec. (n). Pub. L. 93-383, §212(6), substituted "June 30, 1976" for "October 1, 1974".

Subsec. (p). Pub. L. 93-383, §212(7), added subsec. (p). 1973—Subsec. (n). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (n). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (b). Pub. L. 91-609, §§108, 118(a), inserted definition of "mortgage insurance premium" and substituted "which may involve either new or existing construction and which" for "which prior to completion of construction or rehabilitation" before "is approved", respectively.

Subsec. (g). Pub. L. 91-609, §117(c), provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Subsec. (i)(1). Pub. L. 91-609, §§102(b), 121(b), in second sentence inserted "outstanding" before "contracts" where first appearing and substituted "\$150,000,000 on July 1, 1970" and "\$200,000,000 on July 1, 1971" for "\$125,000,000 on July 1, 1970" and "\$170,000,000 on July 1, 1971", respectively, and in first sentence inserted "by the Secretary" after "entered into".

Subsec. (i)(3). Pub. L. 91-609, §114[115](b)(2), added par. (3).

Subsec. (j)(5). Pub. L. 91-609, §§114(b), 114[115](b)(1), provided for use of certain housing facilities for classroom purposes where public schools in the community are overcrowded due in part to attendance of residents of the property or project, but dispensed with need for kitchen facilities in dwelling units in projects for displaced, elderly, or handicapped families.

Subsec. (n). Pub. L. 91-609, §101(e), substituted "October 1, 1972" for "October 1, 1971".

Subsec. (o). Pub. L. 91-609, §121(a), added subsec. (o). See Codification note above.

1969—Subsec. (b). Pub. L. 91-152, §§108, 418(b), inserted proviso authorizing the Secretary to continue making interest reduction payments where the mortgage has been assigned to him, and inserted "mortgage or part thereof on a" after "with respect to a".

Subsec. (i)(1). Pub. L. 91-152, §107(b), substituted "\$125,000,000 on July 1, 1969, by \$125,000,000 on July 1, 1970, and by \$170,000,000 on July 1, 1971" for "\$100,000,000 on July 1, 1969, and by \$125,000,000 on July 1, 1970".

Subsec. (i)(2). Pub. L. 91-152, §412(c), required the Secretary to report semiannually instead of annually to the respective Committees on Banking and Currency of the Senate and House of Representatives.

Subsec. (n). Pub. L. 91-152, §101(e), added subsec. (n).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2000 AMENDMENT**

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, unless effectiveness or applicability upon another date certain is specifically provided for, with provisions relating to effect of regulatory authority, see section 803 of Pub. L. 106-569, set out as a note under section 1701q of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-74, title V, §532(f), Oct. 20, 1999, 113 Stat. 1119, provided that: "This section [amending this section and enacting provisions set out as a note below] shall take effect, and the amendments made by this section are made and shall apply, on the date of the enactment of this Act [Oct. 20, 1999]."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 106-74, title V, §532(e), Oct. 20, 1999, 113 Stat. 1118, provided that: "Section 236(g) of the National Housing Act (12 U.S.C. 1715z-1(g)), as amended by section 227 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105-276; 112 Stat. 2490) shall be effective on the date of the enactment of such Public Law 105-276 [Oct. 21, 1998], and any excess rental charges referred to in such section that have been collected since such date of the enactment with respect to projects with mortgages insured under section 207 of the National Housing Act (12 U.S.C. 1713) may be retained by the project owner unless the Secretary of Housing and Urban Development specifically provides otherwise. The Secretary may return any excess charges remitted to the Secretary since such date of the enactment."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 203(b) of Pub. L. 96-153 effective Dec. 21, 1979, and maximum amount of tenant contribution applicable, see section 203(c) of Pub. L. 96-153, formerly set out as a note under section 1701s of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-557, title II, §201(k), formerly (i), Oct. 31, 1978, 92 Stat. 2087, as redesignated by Pub. L. 97-35, title III, §321(f)(2)(A), Aug. 13, 1981, 95 Stat. 400, provided that the amendment made by that section is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1977 AMENDMENT; APPLICABILITY

Pub. L. 95-128, title II, §206(d), Oct. 12, 1977, 91 Stat. 1130, provided that: "The amendments made by this section [amending this section] shall become effective on October 1, 1977, and shall apply to assistance payments pursuant to section 236(f)(3) of the National Housing Act [12 U.S.C. 1715z-1(f)(3)] with respect only to periods commencing on or after such date."

UNCOMMITTED BALANCES OF EXCESS RENTAL CHARGES

Pub. L. 110-161, div. K, title II, Dec. 26, 2007, 121 Stat. 2425, which provided in part for transfer from the Rental Housing Assistance Fund of all uncommitted balances of excess rental charges as of Sept. 30, 2007, and any collections made during fiscal year 2008 and all subsequent fiscal years, to the Flexible Subsidy Fund, was repealed by Pub. L. 113-76, div. L, title II, §232, Jan. 17, 2014, 128 Stat. 634.

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 109-115, div. A, title III, Nov. 30, 2005, 119 Stat. 2453, repealed by Pub. L. 112-55, div. C, title II, §235, Nov. 18, 2011, 125 Stat. 702.

Pub. L. 108-447, div. I, title II, Dec. 8, 2004, 118 Stat. 3308, repealed by Pub. L. 112-55, div. C, title II, §235, Nov. 18, 2011, 125 Stat. 702.

Pub. L. 108-199, div. G, title II, Jan. 23, 2004, 118 Stat. 385.

Pub. L. 108-7, div. K, title II, Feb. 20, 2003, 117 Stat. 494.

Pub. L. 107-73, title II, Nov. 26, 2001, 115 Stat. 669.

Pub. L. 106-377, §1(a)(1) [title II], Oct. 27, 2000, 114 Stat. 1441, 1441A-19.

Pub. L. 106-74, title II, Oct. 20, 1999, 113 Stat. 1064.

Pub. L. 105-276, title II, Oct. 21, 1998, 112 Stat. 2480.

Pub. L. 105-65, title II, Oct. 27, 1997, 111 Stat. 1361.

Pub. L. 104-134, title I, §101(e) [title II], Apr. 26, 1996, 110 Stat. 1321-257, 1321-270.

SUBMISSION OF ELECTRONIC INVOICES

Pub. L. 109-115, div. A, title III, §325, Nov. 30, 2005, 119 Stat. 2466, provided that: "Notwithstanding any other provision of law, for fiscal year 2006 and thereafter, all mortgagees receiving interest reduction payments under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall submit only electronic invoices to the Department of Housing and Development in order to receive such payments. The mortgagees shall comply with this requirement no later than 90 days from the date of enactment of this provision [Nov. 30, 2005]."

TREATMENT OF EXCESS CHARGES PREVIOUSLY COLLECTED

Pub. L. 106-569, title VIII, §861(b), Dec. 27, 2000, 114 Stat. 3025, provided that: "Any excess charges that a project owner may retain pursuant to the amendments made by subsections (b) and (c) of section 532 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74; 113 Stat. 1116) [amending this section] that have been collected by such owner since the date of the enactment of such appropriations Act [Oct. 20, 1999] and that such owner has not remitted to the Secretary of Housing and Urban Development may be retained by such owner unless such Secretary otherwise provides. To the extent that a project owner has remitted such excess charges to the Secretary since such date of the enactment, the Secretary may return to the relevant project owner any such excess charges remitted. Notwithstanding any other provision of law, amounts in the Rental Housing Assistance Fund, or heretofore or subsequently transferred from the Rental Housing Assistance Fund to the Flexible Subsidy Fund, shall be available to make such return of excess charges previously remitted to the Secretary, including the return of excess charges referred to in section 532(e) of such appropriations Act [see Effective Date of 1998 Amendment note above]."

RENTAL HOUSING ASSISTANCE; EXTENSION OF TIME WITHIN WHICH TO SUBMIT APPLICATION

Pub. L. 101-45, title II, June 30, 1989, 103 Stat. 127, provided: "That notwithstanding the second sentence of such section 236(r) [12 U.S.C. 1715z-1(r)], an application shall be eligible for assistance under such section if the mortgagee submits an application within five hundred and forty-eight days after the effective date of this Act [June 30, 1989]."

DIRECT FINANCING STUDY BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT AND SECRETARY OF THE TREASURY; REPORT TO CONGRESS; TRANSMITTAL NOT LATER THAN ONE YEAR AFTER AUGUST 22, 1974

Pub. L. 93-383, title VIII, §822, Aug. 22, 1974, 88 Stat. 740, directed Secretary of Housing and Urban Development and Secretary of the Treasury to study feasibility of financing programs authorized under section 236 of the National Housing Act [this section] and section 802 of this Act [42 U.S.C. 1440] through various financing methods, including direct loans from Federal Financing Bank, with a view to determining whether there was any method that would result in net savings to

Federal Government (after taking into account direct and indirect effects of such method) and to transmit to Congress a report on study not later than one year after Aug. 22, 1974.

TRANSFER OF INSURANCE OF MORTGAGES NOT FINALLY ENDORSED FOR INSURANCE UNDER SECTION 1715(d)(3) OF THIS TITLE

Pub. L. 90-448, title II, §201(c), Aug. 1, 1968, 82 Stat. 502, provided that: "The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to transfer to section 236(j) of the National Housing Act [12 U.S.C. 1715z-1(j)] the insurance of a mortgage which has not been [sic] finally endorsed for insurance under section 221(d)(3) of such Act [12 U.S.C. 1715(d)(3)] and which has been approved for the below-market interest rate prescribed in the proviso of section 221(d)(5) of such Act [12 U.S.C. 1715(d)(5)]."

INSURANCE OF MORTGAGES GIVEN TO REFINANCE MORTGAGE LOANS MADE UNDER SECTION 1701q OF THIS TITLE

Pub. L. 90-448, title II, §201(d), Aug. 1, 1968, 82 Stat. 502, provided that: "The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to insure under section 236(j) of the National Housing Act [12 U.S.C. 1715z-1(j)] a mortgage meeting the requirements of such section which is given to refinance a mortgage loan made under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q]: *Provided*, That the application for such insurance is filed with the Secretary on or before the date of project completion, or within such reasonable time thereafter as the Secretary may permit."

CEILING ON TOTAL INTEREST REDUCTION PAYMENTS IN ANY FISCAL YEAR

Pub. L. 90-608, ch. IV, §401, Oct. 21, 1968, 82 Stat. 1193, provided in part that the total payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act [this section] shall not exceed \$25,000,000.

Pub. L. 91-47, title II, §201, July 22, 1969, 83 Stat. 53, increased by \$45,000,000 the limitation on total payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (82 Stat. 498) [this section].

§ 1715z-1a. Assistance for troubled multifamily housing projects

(a) Purpose

The purposes of this section are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of the management, to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing, and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act [12 U.S.C. 1701 et seq.], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the Housing Act of 1959, or the Housing and Urban Development Act of 1965, without regard to whether such projects are insured under the National Housing Act.

(b) Availability of financial assistance

The Secretary of Housing and Urban Development (hereinafter referred to in this section as the "Secretary") may make available, and contract to make available, to such extent and in such amounts as may be approved in appropriation Acts, financial assistance to owners of rental or cooperative housing projects meeting the

requirements of this section. Such assistance shall be made on an annual basis and in accordance with the provisions of this section, without regard to whether such projects are insured under the National Housing Act [12 U.S.C. 1701 et seq.].

(c) Eligibility for financial assistance

A rental or cooperative housing project is eligible for assistance under this section only if such project—

(1)(A) is assisted under section 236 [12 U.S.C. 1715z-1] or the proviso of section 221(d)(5) of the National Housing Act [12 U.S.C. 1715(d)(5)], or under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], or received a loan under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] more than 15 years before the date on which assistance is made available under this section;

(B) is assisted under section 23 of the United States Housing Act of 1937 [42 U.S.C. 1421b], as in effect immediately before January 1, 1975, section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] following conversion to such assistance from assistance under section 236 of the National Housing Act [12 U.S.C. 1715z-1] or section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

(C) met the criteria specified in subparagraph (A) of this paragraph before the acquisition of such project by the Secretary and has been sold by the Secretary, subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this section) which provides that the low- and moderate-income character of the project will be maintained; except that, with respect to projects sold after October 1, 1978, assistance shall be available for a period not to exceed three years; and

(2) meets such other requirements consistent with the purposes of this section as the Secretary may prescribe.

(d) Criteria for granting financial assistance

No assistance may be made available under this section unless the Secretary has determined that—

(1) such assistance, when considered with other resources available to the project, is necessary and, in the determination of the Secretary, will restore or maintain the financial or physical soundness of the project and maintain the low- and moderate-income character of the project, and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage;

(2) the assistance which could reasonably be expected to be provided over the useful life of the project will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act [12 U.S.C. 1701 et seq.], has provided or has agreed